BEST AVAILABLE IMAGES

Defective images within this document are accurate representations of the original documents submitted by the applicant.

Defects in the images may include (but are not limited to):

- BLACK BORDERS
- TEXT CUT OFF AT TOP, BOTTOM OR SIDES
- FADED TEXT
- ILLEGIBLE TEXT
- SKEWED/SLANTED IMAGES
- COLORED PHOTOS
- BLACK OR VERY BLACK AND WHITE DARK PHOTOS
- GRAY SCALE DOCUMENTS

IMAGES ARE BEST AVAILABLE COPY.

As rescanning documents *will not* correct images, please do not report the images to the Image Problem Mailbox.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/765,098	01/18/2001	Michael Clary	PURRING-PA-2	8219

7590 05/19/2004

Royal W. Craig
Law Offices of Royal W. Craig
Suite 153
10 NORTH CALVERT STREET
Baltimore, MD 21202

EXAMINER	
VU, STEPHEN A	

ART UNIT	PAPER NUMBER
3636	

DATE MAILED: 05/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Paper No. 05062004

Application Number: 09/765,098
Filing Date: January 18, 2001
Appellant(s): CLARY ET AL.

Pamela M. Riley (#40,146)
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed on February 24, 2003 and April 9, 2004.

(1) Real Party in Interest

A statement identifying the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) Status of Claims

The statement of the status of the claims contained in the brief is incorrect. A correct statement of the status of the claims is as follows:

This appeal involves claim 1.

Claims 3-5 have been withdrawn from consideration as not directed to the elected invention.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Invention

The summary of invention contained in the brief is correct.

(6) Issues

The appellant's statement of the issues in the brief is correct.

(7) Grouping of Claims

Appellant's brief includes a statement that claim 1 do not stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

(8) Claims Appealed

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) Prior Art of Record

4,410,214	Geschwender	10-1983
4,657,302	Snyder	4-1987
5,435,203	Spease et al	7-1995

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim 1 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Geschwender'214 in view of Snyder and Spease et al.

Geschwender'214 shows an articulating chair (1) comprising a knockdown frame having a pair of separate U-shaped frame portions (5,7), wherein one is a seat frame portion and the other is a backrest frame portion. A pair of generally L-shaped connecters (9) are adapted to fit with the ends of the frame portions to form a rigid L-shaped frame. A removable cover (11) is disclosed to fit over the frame. The cover has a top panel section sewn against a bottom panel section, a side panel section sewn, and a cushion enclosed in between the sections. Geschwender'214 discloses the claimed invention except for the U-shaped frame portions to have ends that are chamfered and the U-shaped frame portions and L-shaped connectors to be Zinc plated.

Snyder teaches a plurality of rod members (35), each having a chamfered end (36) to facilitate receipt of the rod members into the sockets (14). It would have been

obvious to one of ordinary skill in the art at the time the invention was made to modify the U-shaped frame portions of Geschwender'214's chair to have chamfered ends as taught by Snyder in order to facilitate receipt of the frame portions within the L-shaped connectors.

In addition, Spease et al teach a remote control assembly comprising an elongated member (28) formed from a zinc plated rod (see col. 5, lines 12-13) for functional durability. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the U-shaped frame portions and L-shaped connectors of Geschwender'214's chair be Zinc plated to provide functional durability under the stress of use.

(11) Response to Argument

The applicant has argued that claim 1 is not obvious under 35 U.S.C. 103 (a) over Geschwender (#4,410,214) in view of Snyder (#4,657,302) and Spease et al (#5,435,203). The basis for the applicant's argument is that the combination of the prior art would have not provided the easing of assembly of the frame and prolonging the fabric life. Please note that the examiner's reasons to combine the prior art do not necessarily have to be the same as the applicant's disclosure. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Snyder teaches a plurality of rod members (35), each having a chamfered end (36) to facilitate receipt of the rod members into the sockets (14). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the U-shaped frame portions of Geschwender'214's chair to have chamfered ends as taught by Snyder in order to facilitate receipt of the frame portions within the L-shaped connectors. In addition, Spease et al teach a remote control assembly comprising an elongated member (28) formed from a zinc plated rod (see col. 5, lines 12-13) for functional durability. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the U-shaped frame portions and L-shaped connectors of

Geschwender'214's chair be Zinc plated to provide functional durability under the stress of use.

In response to applicant's argument that the motivation for "easing assembly and prolonging fabric life" (see page 7, lines 18-19) is not apparent or inherent in Snyder and Spease, the fact that applicant has recognized another advantage which would flow naturally from following the suggestion of the prior art cannot be the basis for patentability when the differences would otherwise be obvious. See *Ex parte Obiaya*, 227 USPQ 58, 60 (Bd. Pat. App. & Inter. 1985). The basic criteria for prima facie case of obviousness are met by the prior art of Snyder and Spease et al.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Peter M. Cuomo
Supervisory Patent Examiner
Technology Center 3600

Stephen Vu
May 7, 2004

Conferees
Peter Cuomo
Carl Friedman

Royal W. Craig
Law Offices of Royal W. Craig
Suite 153
10 NORTH CALVERT STREET
Baltimore, MD 21202